

PAGE 1 OF 8  
DATE: 12 APR 2004

COMMONWEALTH OF KENTUCKY  
PUBLIC SERVICE COMMISSION

RECEIVED  
APR 13 2004  
PUBLIC SERVICE  
COMMISSION

IN THE MATTER OF :

THE JOINT APPLICATION OF ORCHARD )  
GRASS UTILITIES INC. AND OLDHAM )  
COUNTY SANITATION DISTRICT FOR )  
APPROVAL OF THE TRANSFER OF )  
WASTE WATER TREATMENT FACILITIES )  
PURSUANT TO STOCK PURCHASE )  
AGREEMENT BETWEEN THE PARTIES )

CASE NO.  
2004 - 00029

ENCLOSURES:

19. MY PROPERTY TAX BILL FOR 2002 & 2003, INCLUDING 2003 SUPPLEMENTAL BILL. (THREE PAGES)

20. COURIER JOURNAL 02 DEC 2003 ARTICLE CONCERNING PROPERTY TAX RECALL PETITION IN OLDHAM COUNTY.

21. COURIER JOURNAL 10 MAR 2004 ARTICLE CONCERNING MSD MONTHLY DRAINAGE FEE OF \$ 4.14.

**TESTIMONY AND RECOMMENDATIONS OF ROBERT L. MADISON**

THIS IS THE TESTIMONY AND RECOMMENDATIONS OF ROBERT L. MADISON IN THE ABOVE REFERENCED CASE.

**BACKGROUND**

I HAVE BEEN A RESIDENTIAL CUSTOMER OF WILLOW CREEK SEWER PLANT AND A RESIDENT IN WILLOW CREEK SUBDIVISION SINCE APR 1980. THE PROPERTY I LIVE IN AND OWN, AT THE ADDRESS AT THE END OF THIS DOCUMENT, HAS THE OLDHAM AND JEFFERSON COUNTY LINE PASS THROUGH IT. I HAVE DEED DOCUMENTS IN BOTH COUNTIES. THE PROPOSED ACQUISITION OF THE WILLOW CREEK AND ORCHARD GRASS SEWAGE PLANTS BY THE OLDHAM COUNTY SEWAGE DISTRICT (OCSD) RAISES NUMEROUS ISSUES. SOME OF THE ISSUES ARISE FROM THE PROPOSED OCSD SEWAGE RATES BEING BASED ON VARIABLE WATER USAGE. THE CURRENT SEWAGE CHARGE I PAY HAS A FIXED MONTHLY CHARGE.

**SUMMARY OF RECOMMENDATIONS**

II DO NOT FEEL THE OCSD HAS THE FINANCIAL, TECHNICAL AND MANAGERIAL ABILITIES TO PROVIDE REASONABLE UTILITY SERVICE. (KRS 278.020 (4)) I DO NOT FEEL THE OCSD TRANSFER WILL BE IN ACCORDANCE

WITH LAW, FOR A PROPER PURPOSE AND IS CONSISTENT WITH THE PUBLIC INTEREST. (KRS 278.020 (5)) MY PRIMARY RECOMMENDATION IS THAT THE PSC NOT APPROVE THE TRANSFER. MY SECONDARY RECOMMENDATION IS THAT IF THE PSC DOES MAKE A DETERMINATION TO APPROVE THE TRANSFER THAT THE PSC APPROVAL BE CONDITIONED ON CERTAIN TERMS AND CONDITIONS.

**THE TRANSFER WILL RESULT IN A 56.04 PERCENTAGE INCREASE IN THE WILLOW CREEK CUSTOMER MONTHLY SEWAGE RATES AND A 88.66 PERCENTAGE INCREASE IN THE ORCHARD GRASS CUSTOMER SEWAGE RATES FOR THE AVERAGE CUSTOMER. THIS IS NOT REASONABLE SERVICE. (KRS 278.020 (4))**

A REASONABLE CONDITION AND TERM IMPOSED BY THE PSC, IF THE PSC DETERMINES TO APPROVE THE TRANSFER, WOULD BE TO HAVE A FIXED MONTHLY RATE FOR WILLOW CREEK RESIDENTIAL SEWAGE CUSTOMERS AND A FIXED MONTHLY RATE FOR ORCHARD GRASS RESIDENTIAL CUSTOMERS. IN PSC CASE 97-426, IN AN ORDER DATED 09 OCT 1998, THE PSC APPROVED A FIXED MONTHLY RATE FOR WILLOW CREEK RESIDENTIAL SEWAGE CUSTOMERS OF \$ 18.45. ASSUMING THE SAME DATE FOR ORCHARD GRASS WITH THE CURRENT FIXED MONTHLY RATE OF \$ 15.59 AND CALCULATING AN ANNUAL 3 % INCREASE, THE CURRENT FIXED MONTHLY RATE FOR WILLOW CREEK WOULD BE \$ 21.38, FOR ORCHARD GRASS \$ 18.07. THE FOLLOWING CHART SHOWS THE CALCULATIONS :

YEAR	WILLOW CREEK	ORCHARD GRASS
1998	\$ 18.45	\$ 15.59
1999	\$ 19.00	\$ 16.05
2000	\$ 19.57	\$ 16.53
2001	\$ 20.16	\$ 17.03
2002	\$ 20.76	\$ 17.54
2003	\$ 21.38	\$ 18.07

**PRIMARY RECOMMENDATION : THE PSC NOT APPROVE THE TRANSFER.**

**SECONDARY RECOMMENDATION :** IF THE PSC DOES APPROVE THE TRANSFER, THE TRANSFER BE CONDITIONED ON OCSD AGREEING TO CHARGE WILLOW CREEK RESIDENTIAL SEWAGE CUSTOMERS A FIXED MONTHLY RATE OF \$ 21.38 PER MONTH AND ORCHARD GRASS RESIDENTIAL SEWAGE CUSTOMERS A FIXED MONTHLY RATE OF \$18.07 A MONTH. THE SAID RATES COULD NOT BE INCREASED BY MORE THAN 3 PERCENT PER YEAR. THE YEARLY DATE FOR INCREASE WOULD BE THE DATE OF PSC APPROVAL. ANY RESIDENTIAL WILLOW CREEK OR RESIDENTIAL ORCHARD GRASS SEWAGE CUSTOMER COULD ACCEPT THE PROPOSED VARIABLE RATES OF OCSD CHARGED IN THE REST OF THE COUNTY, AT THE OPTION OF THE RESIDENTIAL CUSTOMER.

**OCSD DOES NOT HAVE THE FINANCIAL, TECHNICAL AND  
MANAGERIAL ABILITIES TO PROVIDE REASONABLE SERVICE.**

I HAVE INTRODUCED DOCUMENTS THAT SHOW THAT THE OCSD IS LOSING SUBSTANTIAL AMOUNTS OF MONEY PER MONTH. OCSD HAS STATE REGULATORY SANCTIONS ISSUED AGAINST IT SINCE IT HAS ACQUIRED ONE OF THE OLDHAM COUNTY PLANTS. OCSD HAS REFUSED TO PROVIDE THE RESUMES AND ANNUAL SALARIES OF THE OCSD BOARD MEMBERS AND REFUSED TO PROVIDE THE NAMES, TITLES AND ANNUAL SALARIES OF THE EMPLOYEES OF THE OCSD. OCSD IS PROPOSING TO PAY A SUBSTANTIALLY HIGHER PRICE FOR THE TWO PLANTS THAN THE VALUE OF THE LAND AND THE PROPERTY. OCSD WILL THEN PASS THOSE UNREASONABLE COSTS ON TO THE SEWAGE CUSTOMERS.

**PRIMARY RECOMMENDATION** : THE PSC NOT APPROVE THE TRANSFER.

**SECONDARY RECOMMENDATION** : IF THE PSC DOES APPROVE THE TRANSFER, THE TRANSFER BE CONDITIONED ON OCSD AGREEING TO ONLY PLACE THE ACTUAL VALUES OF THE PURCHASED PLANTS AND REAL ESTATE IN THE REVENUE REQUIREMENT THAT WILL DETERMINE THE RATES CHARGED TO CUSTOMERS. THE PREMIUM PAID TO THE FORMER OWNERS OF OLDHAM COUNTY PLANTS WILL NOT BE PASSED ON TO CUSTOMERS.

**THE PROPOSED TRANSFER IS NOT IN CONSISTENT WITH THE  
PUBLIC INTEREST AND NOT FOR A PROPER PURPOSE  
(KRS 278.020 (5), KRS 278.218 (2))**

ONE OF THE EFFECTS OF THE OLDHAM COUNTY SEWER DISTRICT (OCSD) HAVING REGIONAL SEWAGE TREATMENT FACILITIES WILL BE TO ENABLE A HIGH RATE OF INDUSTRIAL, COMMERCIAL AND RESIDENTIAL DEVELOPMENT. NOW, THE LACK OF SEWAGE FACILITIES IS A BOTTLE NECK IN PREVENTING DEVELOPMENT. WITH MORE DEVELOPMENT THERE WILL BE AN INCREASE IN THE POPULATION, ROAD DEVELOPMENT, POLLUTION, DESTRUCTION OF FARMLAND, WOODS AND WILDLIFE, INCREASES IN PROPERTY TAX REVENUE, THE NEED FOR MORE SCHOOLS, A BIGGER LOCAL GOVERNMENT BUREAUCRACY, HIGHER TAXATION RATES FOR RESIDENTS AND HIGHER TAX BURDENS. A COMPARISON OF MY 2002 PROPERTY TAX (\$ 722.25, MADISON ENCLOSURE 19 PAGE 1) WITH THE COMBINED 2003 TAX (\$ 812.25 MADISON ENCLOSURE 19 PAGE 2 & 3) SHOWS AN INCREASE OF 12.46 % AND A DOLLAR INCREASE OF \$ 90, WITH NO INCREASE IN THE ASSESSMENT.

THE REASON FOR THE INCREASE IN TAXES IS A HIGH RATE OF DEVELOPMENT IN OLDHAM COUNTY. THE GENERAL ASSEMBLY HAS AUTHORIZED INCREASES IN PROPERTY TAXES FOR AREAS OF RAPID DEVELOPMENT. PART OF THE TAX IS RECALLABLE BY PETITION. A PETITION WAS INITIATED IN OLDHAM COUNTY, BUT THROWN OUT BY THE COUNTY ATTORNEY, THE COUNTY CLERK AND THE HEAD OF THE SCHOOL BOARD (MADISON ENCLOSURE 20). THE WILL OF THE PEOPLE WAS SUBVERTED BY A COALITION OF GOVERNMENT OFFICIALS. RECENTLY A DYNEGY PEAKING POWER PLANT WAS BUILT IN LAGRANGE IN OLDHAM COUNTY. THE

INCREASING HUNGER FOR MORE TAX REVENUE AND POWER BY OLDHAM COUNTY GOVERNMENT AND OLDHAM COUNTY POLITICIANS IS HAVING NEGATIVE CONSEQUENCES TO THE QUALITY OF LIFE OF OLDHAM COUNTY RESIDENTS.

IF THE GOAL OF OCSD IS TO IMPROVE THE SEWAGE UTILITIES OF CURRENT RESIDENTS, THAT IS ONE THING. IF IT WILL HAVE FAR REACHING EFFECTS ON THE ENTIRE COMMUNITY WITH MANY NEGATIVE RESULTS, I FEEL THE SEWAGE PLANT TRANSFER IS NOT FOR A PROPER PURPOSE. IF THE COUNTY IS DEVELOPED TOO RAPIDLY IT WILL HAVE NEGATIVE ENVIRONMENTAL AND TAX BURDEN CONSEQUENCES. THEREFORE, I CONCLUDE THE TRANSFER IS NOT IN THE PUBLIC INTEREST OR FOR A PROPER PURPOSE.

**RECOMMENDATION** : THE PSC NOT APPROVE THE TRANSFER.

#### **DRAINAGE FEE**

MSD CURRENTLY CHARGES A \$ 4.14 DRAINAGE FEE TO RESIDENTIAL CUSTOMERS. (MADISON ENCLOSURE 21) THE CURRENT PLAN OF OCSD IS TO SHUT DOWN THE WILLOW CREEK PLANT AND HAVE THE SEWAGE TREATED BY THE JEFFERSON COUNTY MSD HITE CREEK FACILITY. RICK RASH HAS TOLD ME THAT OCSD INTENDS TO IMPLEMENT A DRAINAGE FEE AT SOME TIME IN THE FUTURE. ASSUMING THAT THE TRANSFER IS APPROVED AS PROPOSED BY THE JOINT APPLICANTS RESULTING IN A MONTHLY SEWAGE CHARGE OF \$ 28.79 FOR AN AVERAGE OCSD CUSTOMER, THAT A DRAINAGE FEE OF \$ 4.14 IS IMPLEMENTED IMMEDIATELY AND AN ANNUAL INCREASE IN THE SEWAGE CHARGE OF 6.5 % (MADISON ENCLOSURE 10), THE COST FOR A RESIDENTIAL CUSTOMER OF OCSD WILL BE \$ 61.81 PER MONTH IN 10 YEARS. THE CALCULATIONS ARE AS FOLLOWS :

YEAR	COST
2004	\$ 32.93
2005	\$ 35.07
2006	\$ 37.35
2007	\$ 39.77
2008	\$ 42.36
2009	\$ 45.11
2010	\$ 48.04
2011	\$ 51.17
2012	\$ 54.49
2013	\$ 58.04
2014	\$ 61.81

**RECOMMENDATION** : IF THE PSC DOES APPROVE THE TRANSFER, THE TRANSFER BE CONDITIONED ON OCSD AGREEING TO :

1. NOT IMPLEMENT ANY DRAINAGE FEE FOR A PERIOD OF THREE YEARS AFTER THE PSC APPROVAL DATE. AND

PAGE 5 OF 8  
DATE: 12 APR 2004

2. ANY DRAINAGE FEE REVENUE MUST BE USED ONLY FOR DRAINAGE PROJECTS, NOT FOR GENERAL GOVERNMENT REVENUE OR OTHER POLITICAL PROJECTS.

**THE PROPOSED TRANSFER IS NOT IN ACCORDANCE WITH THE LAW  
(KRS 220.285, KRS 220.035 (2), KRS 220.135 (1) & (7) (b))**

BECAUSE THE OCSD IS PROPOSING TO SERVE 125 RESIDENTIAL SEWAGE CUSTOMERS OF WILLOW CREEK THAT ARE LOCATED IN JEFFERSON COUNTY, THIS REQUIRES OCSD TO GET PERMISSION OF THE METRO COUNCIL IN JEFFERSON COUNTY. OCSD HAS NOT DONE SO OR EVEN ATTEMPTED TO DO SO.

**RECOMMENDATION** : IF THE PSC DOES APPROVE THE TRANSFER, THE TRANSFER BE CONDITIONED ON OCSD GETTING WRITTEN APPROVAL FROM THE LOUISVILLE METRO COUNCIL TO SERVE JEFFERSON COUNTY SEWAGE RESIDENTIAL CUSTOMERS. THE PSC APPROVAL OF THE TRANSFER SHALL NOT BE EFFECTIVE UNTIL THE WRITTEN APPROVAL HAS BEEN GRANTED AND A REASONABLE AMOUNT OF TIME TO BE REVIEWED BY THE PARTIES IN THIS PROCEEDING AND DEEMED ACCEPTABLE BY THE PSC.

**DROUGHT CONDITIONS**

IN THE PAST FEW YEARS OLDHAM COUNTY HAS HAD SUMMER DROUGHT CONDITIONS TWICE THAT I HAVE BEEN REQUIRED TO WATER THE TREES AND SHRUBS ON MY PROPERTY. IF I HAD NOT DONE SO I WOULD HAVE LIKELY HAD TO REMOVE AND REPLACE NUMEROUS TREES OR SHRUBS CAUSING POSSIBLE PROPERTY DAMAGE AND HIGH MONETARY COSTS. CURRENTLY ON THE FIXED MONTHLY SEWAGE RATE, THIS INCREASES MY WATER BILL BUT NOT MY SEWAGE BILL. WILLOW CREEK HAS COMMON AREAS BEHIND THE HOUSES ON THE STREETS THAT ARE NOT DEVELOPED. I CUT THE GRASS BEHIND A CERTAIN PORTION OF MY PROPERTY TO KEEP IT FROM BEING A HAZARD FROM SNAKES AND MICE. IN THE PAST SEVERAL YEARS I HAVE HAD TO CUT DOWN OR REMOVE TWO LARGE TREES THAT HAVE DIED FROM DROUGHT CONDITIONS IN THE COMMON AREA I MAINTAIN. IT IS NOT APPROPRIATE OR REASONABLE FOR A RESIDENTIAL SEWAGE CUSTOMER TO PAY A HIGHER SEWAGE FEE TO KEEP TREES AND SHRUBS FROM DYING ON THEIR PROPERTY.

**RECOMMENDATION** : IF THE PSC DOES APPROVE THE TRANSFER, THE TRANSFER BE CONDITIONED ON OCSD AGREEING TO REDUCE THE FORMULA FOR CALCULATING SEWAGE COSTS BY REDUCING THE WATER USAGE 20 % DURING MONTHS OF DROUGHT CONDITIONS.

**THE USE OF AMOUNT OF WATER IN CALCULATING BILLS  
DOES NOT CONSIDER THAT NOT ALL WATER USED IS  
PROCESSED AS SEWAGE**

RESIDENTIAL CUSTOMERS USE WATER THAT IS NOT PROCESSED IN THE SEWAGE SYSTEM. EXAMPLES OF ACTIVITIES THAT USE WATER BUT DO NOT RESULT IN SEWAGE PROCESSING ARE LAWN WATERING, CAR

PAGE 6 OF 8  
DATE: 12 APR 2004

WASHING, FILLING POOLS, ETC. IT IS NOT APPROPRIATE OR REASONABLE FOR RESIDENTIAL CUSTOMERS TO BE BILLED FOR COSTS THAT OCSD IS NOT INCURRING.

**RECOMMENDATION** : IF THE PSC DOES APPROVE THE TRANSFER, THE TRANSFER BE CONDITIONED ON OCSD AGREEING TO REDUCE THE FORMULA FOR CALCULATING SEWAGE COSTS BY USING 85 % OF THE WATER USAGE.

**OCSD IS ATTEMPTING TO HAVE THE RESIDENTIAL CUSTOMERS OF WILLOW CREEK AND ORCHARD GRASS SUBSIDIZE THE RATES OF OTHER OLDHAM COUNTY RESIDENTIAL SEWAGE CUSTOMERS (KRS 278.170 (1), KRS 278.030 (1))**

THE OCSD IS TRYING TO GET THE RESIDENTIAL SEWAGE CUSTOMERS OF WILLOW CREEK AND ORCHARD GRASS TO SUBSIDIZE THE RATES OF OTHER OLDHAM COUNTY RESIDENTIAL SEWAGE CUSTOMERS. (SEE MADISON ENCLOSURE 2 AND RASH LETTER RECEIVED ON 23 FEB 2004 BY THE PSC). THIS IS ILLEGAL AND VIOLATES STATE LAW. IN THE RASH LETTER DATED 20 FEB 2004 IT STATES :

' THE ADDITION OF ANOTHER 1050 CUSTOMERS SHOULD ALLOW US TO LOWER THE RATE. A RATE OF \$ 7 A MONTH AND \$ 3 PER THOUSAND MIGHT BE IN ORDER. '

**RECOMMENDATION** : THE PSC NOT APPROVE THE TRANSFER.

#### **TAP ON FEES**

THE OCSD HAS STATED THAT NO TAP ON FEES WILL BE CHARGED TO CURRENT WILLOW CREEK OR ORCHARD GRASS RESIDENTIAL SEWAGE CUSTOMERS. SINCE THESE FEES MAY COST THOUSANDS OF DOLLARS, CUSTOMERS SHOULD BE CERTAIN THAT THIS IS WILL NOT HAPPEN IN THE FUTURE.

**RECOMMENDATION:** IF THE PSC DOES APPROVE THE TRANSFER, THE TRANSFER BE CONDITIONED ON OCSD AGREEING THAT CURRENT RESIDENTIAL SEWAGE CUSTOMERS OF THE WILLOW CREEK AND THE ORCHARD GRASS SEWAGE PLANT WILL NOT BE CHARGED A TAP ON FEE.

#### **A MOTION OF THE JOINT APPLICANTS ATTEMPTS TO STRIKE THE REBUTTAL OF ROBERT L. MADISON DATED 16 MAR 2004**

IN ORDER TO ENSURE THAT THE TESTIMONY IN MY SAID REBUTTAL IS NOT STRICKEN ON TECHNICAL ISSUES I AM INCLUDING IT AGAIN HERE.

PAGE 7 OF 8  
DATE: 12 APR 2004

**TWO PHONE CONVERSATIONS WITH RICK RASH AND TOUR  
OF WILLOW CREEK PLANT**

ON 13 & 17 FEB 2004, RICK RASH PHONED ME TO DISCUSS THE PSC CASE. ON 13 FEB 2004, RICK RASH, MYSELF, JOHN M. BENNETT AND TWO RESIDENTIAL CUSTOMERS OF WILLOW CREEK TOURED THE WILLOW CREEK PLANT. THE MAJOR ISSUES DISCUSSED WERE :

A. OCSD PLANS TO SHUT DOWN THE WILLOW CREEK PLANT AS SOON AS POSSIBLE AFTER ACQUISITION. A PUMP STATION WILL BE INSTALLED AND THE SEWAGE WILL BE TREATED AT THE MSD HITE CREEK FACILITY. THE WILLOW CREEK PLANT IS OLD, IS NOT FUNCTIONING PROPERLY AND NEEDS TO BE SHUT DOWN.

B. THERE HAVE BEEN CONTINUOUS QUALITY PROBLEMS WITH THE PLANT INCLUDING SEWAGE OVERFLOWS OUTSIDE THE LAGOON, NUMEROUS OCCASIONS OF EXTREME SMELLS COMING FROM THE PLANT, INFREQUENT REMOVAL OF SEWAGE WASTE FROM THE LAGOON, ETC. DESPITE NUMEROUS COMPLAINT TO THE OWNER, MR. COGAN, HE HAS NOT TAKEN CARE OF THE PROBLEMS. THE STATE REGULATORS HAVE NOT BEEN RESPONSIVE TO COMPLAINTS.

C. OCSD HAS PLANS TO BEGIN A DRAINAGE FEE OF APPROXIMATELY \$ 3 - \$ 4 PER MONTH ON ALL RESIDENTIAL CUSTOMERS AT SOME POINT IN THE FUTURE.

D. RICK RASH IS THE MAJOR MOVING FORCE BEHIND THE OCSD CHANGES IN OLDHAM COUNTY. HE HAS BEEN WORKING ON THIS FOR OVER 10 YEARS.

E. THERE APPEARS TO BE A CONFLICT OF INTEREST WHICH COULD EXPLAIN THE QUALITY PROBLEMS OF THE WILLOW CREEK PLANT AND THE LACK OF STATE REGULATION. MR. COGAN'S SON, KEVIN D. COGAN, OWNS THE BUILDING IN JEFFERSON COUNTY THAT HOUSES THE KENTUCKY DIVISION OF WATER, NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET.



PROPERTY TAX BILL — Commonwealth of Kentucky  
 2002 OLDHAM COUNTY

MAKE CHECK PAYABLE TO:  
 STEVEN W SPARROW  
 OLDHAM COUNTY SHERIFF  
 100 WEST JEFFERSON ST  
 LAGRANGE KY 40031

PROPERTY CLASS	Rate Per \$100 Value	Assessed Value	State Tax	County Tax	School Tax	Special Tax	Map Number	Bill Number	
REAL EST	.1350	75,000	101.25	70.50	336.78	17.26	16-35-01-437	11300	
LIBRARY	.0238	75,000				16.00		10313-01	
HEALTH	.0200	75,000				86.00		06	
SCH BLDG	.1160	75,000				21.00		Deed Book - Page	
AMBULANCE	.0230	75,000				78.00		396-269	
NORTHIN FD	.1000	75,000						Farm Acres	
<b>TOTALS BY TAXING DISTRICT</b>									
HOUSE & LOT			101.25	70.50	336.78	217.75		Total Tax	
							ANN B. BROWN	722.25	
							County Clerk		
							Amount Due If:		
							2% Discount	707.80	
							Face Amount	722.25	
							5% Penalty	758.36	
							21% Penalty	873.93	

TAXPAYER'S COPY  
 MADISON ROBERT LEE  
 5407 BAYWOOD DR  
 LOUISVILLE KY 40261

Property Location	Map Number	County Tax	School Tax	Special Tax	Bill Number
BAYWOOD DR 5407	16-35-01-437	70.50	336.78		11300
Assessed Value	State Tax	County Tax	School Tax	Special Tax	Account Number
75,000	101.25	70.50	336.78		10313-01
75,000					Tax District
75,000					06
75,000					Deed Book - Page
75,000					396-269
					Farm Acres
					Date / By
					Total Tax
					722.25

MAIL THIS COPY WITH YOUR PAYMENT

Sheriff's Fee and Advertising Cost  
 Total Amount Paid

700.25

**PROPERTY TAX BILL — Commonwealth of Kentucky**  
**2003 OLDHAM COUNTY**

**MAKE CHECK PAYABLE TO:**  
**STEVEN W SPARRON**  
**OLDHAM COUNTY SHERIFF**  
**100 WEST JEFFERSON ST**  
**LAGRANGE KY 40031**

PROPERTY CLASS	Rate	Per 100 Value	Assessed Value	State Tax	County Tax	School Tax	Special Tax	Map Number	Bill Number	Account Number	Tax District	Dead Book - Page	Farm Acres	Date / By	Total Tax																																																
REAL ESY	.1330	.0930	.4560	99.75	69.75	342.00	17.20	16-35-01-437	11981	10313-01	06	396-289			765.75																																																
LIBRARY		.0230	75.000				15.00																																																								
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AMBULANCE		.0430	75.000				75.00																																																								
MURTHIN PD		.1000	75.000																																																												
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HOUSE & LOT				99.75	69.75	342.00	256.25																																																								
<table border="0"> <tr> <td>2% Discount</td> <td>15.32</td> <td>Paid by</td> <td>NOV 01 2003</td> <td>750.43</td> </tr> <tr> <td>Face Amount</td> <td></td> <td>Paid by</td> <td>OCT 31 2003</td> <td>765.75</td> </tr> <tr> <td>5% Penalty</td> <td>38.29</td> <td>Paid by</td> <td>JAN 31 2004</td> <td>804.04</td> </tr> <tr> <td>21% Penalty</td> <td>160.81</td> <td>Paid after</td> <td>JAN 31 2004</td> <td>965.06</td> </tr> </table>																2% Discount	15.32	Paid by	NOV 01 2003	750.43	Face Amount		Paid by	OCT 31 2003	765.75	5% Penalty	38.29	Paid by	JAN 31 2004	804.04	21% Penalty	160.81	Paid after	JAN 31 2004	965.06																												
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<table border="0"> <tr> <td colspan="14">MAIL THIS COPY WITH YOUR PAYMENT</td> <td colspan="2">Sheriff's Fee and Advertising Cost</td> </tr> <tr> <td colspan="14"></td> <td colspan="2">Total Amount Paid</td> </tr> <tr> <td colspan="14"></td> <td colspan="2">765.75</td> </tr> </table>																MAIL THIS COPY WITH YOUR PAYMENT														Sheriff's Fee and Advertising Cost																Total Amount Paid																765.75	
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**TAXPAYER'S COPY**  
**MADISON ROBERT LEE**  
**3407 BAYWOOD DR**  
**LOUISVILLE KY 40241**

MADISON ENCLOSURE 19  
 PAGE 2 OF 3  
 DATE: 12 APR 2004

PROPERTY TAX BILL -- Commonwealth of Kentucky  
 2003 OLDHAM COUNTY  
 SUPPLEMENTAL BILL FOR COUNTY AND SCHOOL TAX

MAKE CHECK PAYABLE TO:  
 STEVEN W SPARROW  
 OLDHAM COUNTY SHERIFF  
 100 WEST JEFFERSON ST  
 LAGRANGE KY 40031

Property Location  
 BAYWOOD DR 5407  
 Map Number  
 10-30-01-437

Bill Number  
 36728  
 Account Number  
 10313-01  
 Tax District  
 06  
 Deed Book - Page  
 396-289  
 Farm Acres

Special Tax  
 38.25

Amount Due If:   
 Paid by FEB 15 2004 45.57  
 Paid by MAR 15 2004 46.50  
 Paid by APR 15 2004 48.87  
 Paid after APR 15 2004 56.27

NEAL EST .0010 +0100 75.000  
 SCH BLDG .0010 75.000  
 ATTENTION TAXPAYER-THE BOARD OF EDUCATION AND THE FISCAL COURT HAVE VOTED TO INCREASE THEIR TAX RATES. THESE INCREASES WERE APPROVED AFTER THE STATE DEADLINE FOR TAX RATE SUBMISSIONS. THE SHERIFF IS REQUIRED BY LAW TO COLLECT TAXES. IF YOU HAVE ANY QUESTIONS REGARDING THESE TAX INCREASES, PLEASE DIRECT THEM TO THE APPROPRIATE TAXING DISTRICT. BOARD OF EDUCATION 222-8560 FISCAL COURT 222-9357.

HOUSE & LOY  
 MADISON ROBERT LEE  
 8507 BAYWOOD DR  
 LOUISVILLE KY 40261

2% Discount  
 Face Amount  
 5% Penalty  
 21% Penalty

Amount Due If:   
 Paid by FEB 15 2004 45.57  
 Paid by MAR 15 2004 46.50  
 Paid by APR 15 2004 48.87  
 Paid after APR 15 2004 56.27

MAIL THIS COPY WITH YOUR PAYMENT

Sheriff's Fee and Advertising Cost  
 Total Amount Paid  
 46.50

# Technicality voids tax recall petition

## Opponents plan to sue Oldham school district, clerk

By TONIA HOLBROOK

tholbrook@courier-journal.com  
The Courier-Journal

A technicality has nullified a petition to recall a 19 percent school-tax increase in Oldham County, Ky. Those who circulated the petition won't get a chance to rectify the petition's flaws, and now hope another technicality will stop the tax increase.

Oldham County Clerk Ann Brown threw out more than 2,200 of the 3,800 names on a petition submitted by the group because many pages of the petition contained names of people living in more than one voting precinct, which violates state law.

Walt Wilkening, a leader of the group, Parents And Taxpayers Reject Increasing Our Taxes, said yesterday it still hopes to stop the tax. He said it intends to sue Brown, for "interpreting the law in an inappropriate manner" and the school district, for a typographical error.

School Superintendent Blake Haselton admits there was an error in two notices published in a local newspaper advertising the Aug. 28 public hearing on the tax increase, but he said that doesn't invalidate the notice and new tax bills will be mailed within the next month. In the two notices, the wrong statute was quoted as grounds for the hearing, which Wilkening said he hopes will result in a revocation of the tax increase.

"If you live by the sword and live by the technicality, you die by the sword and die by the technicality," Wilkening said.

But Haselton said that state law doesn't require school districts to make reference to applicable statutes in advertised notices for hearings.

"I think the notice of the hearing was sufficient to meet the statutory requirements," he said, adding that the fact that about 200 people attended the hearing would indicate that.

Brown said she isn't intimidated by the prospect of a lawsuit.

"I did what I believe the statutes say to do," she said. "We'll just have to sit back and see what happens."

Last week, Brown said she thought she had the discretion to allow Wilkening's group 30 days to correct deficiencies in the petition. She based that on advice she received from County Attorney John Fendley.

But Fendley said yesterday that he made a mistake by referring to Kentucky Revised Statute 160.597. That statute refers only to occupational, utility and excise taxes, not a tax on property, which is what the school board voted to levy. The statute that does apply, KRS 132.017, doesn't provide Brown such discretion, he said.

Haselton brought that discrepancy to Brown's attention yesterday. When Brown checked with Fendley, the county attorney concurred that he had given her bad advice.

"I got focused in on the wrong statute," Fendley said. "Now we're back on the right track."

And as far as the group's last-ditch chance at fixing the petition, Fendley said, "I'm sorry I raised their hopes."

But Fendley said his error doesn't change the fact that the petition was flawed.

Brown threw out 187 pages of the petition because they contained names of people living in more than one voting precinct, which violates KRS 132.017, the statute that governs tax-recall petitions. That left only 1,340 valid signatures, far less than the 2,092 required to force a recall vote.

Wilkening said Brown could have

opted to invalidate individual names on flawed pages, rather than tossing entire pages out.

"But there's no talking common sense into someone who doesn't want to listen to it," Wilkening said.

The county school board voted unanimously in August to raise the tax rate by 10.7 cents, to 67 cents per \$100 of assessed property value. For a house assessed at \$200,000, the school tax would be \$1,340 a year, an extra \$214.

Haselton said the school district would send out a billing within the next month for the recallable portion of the tax, 6.1 cents. The 60.9-cent non-recallable portion was listed on the regular

bills mailed in September.

When the school board approved the tax increase, it said it needed the extra money to build two new elementary schools and a new middle school by fall 2005. Of the district's 14 schools, 10 are crowded, leaving administrators to convert their office space, libraries and even storage closets into classrooms.

The General Assembly has given 19 school districts experiencing rapid growth, including Oldham, the ability to levy three 5.1-cent tax increases. Two of the "growth nickels" aren't recallable and the third is. Oldham has been levying the first one since 1994. It voted to levy the other two including the recal-

lable one, in August.

Another 1 cent of this year's increase is recallable because it would generate a revenue increase of more than 4 percent for the school district's general fund, which Haselton has said is needed to run the three new schools.

Haselton said the district's crowding situation can't wait for resolution of any potential lawsuit. Wilkening threatens before sending out the second bill.

But Wilkening cautioned that if the courts favor his group, the school district would have to refund taxpayers' money, perhaps with interest. "If they're going to rush into it, it would be to their peril, not ours," Wilkening said.

MADISON ENCLOSURE 20

PAGE 1 OF 1

DATE: 12 APR 2004



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Wednesday, March 10, 2004

## MSD takes over Prospect drainage

Residents to pay \$4.14 per month starting in April

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The Courier-Journal

MADISON ENCLOSURE 21  
PAGE 1 OF 2  
DATE: 12 APR 2004

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Prospect residents will pay \$4.14 a month beginning in April for drainage maintenance and emergency flood protection by the Metropolitan Sewer District.

The surcharge, which will be added to customers' Louisville Water Co. bills, will pay for MSD to handle drainage repairs, which the city had been paying for with property-tax revenue.

Mayor Lonnie Falk said the city signed an agreement with MSD last month to take over drainage maintenance because it was costing the city too much, and MSD can do the job for less. After discussing the issue with the public, the City Council authorized Falk to sign the agreement.

Most people in Jefferson County — with the exception of Shively, St. Matthews, Anchorage and Jeffersontown — are already paying the drainage surcharge.

Falk said Prospect has traditionally solved drainage problems by hiring engineering and construction contractors. The city has spent more than \$80,000 annually in recent years.

Falk said he wouldn't want to predict how expensive it would be for Prospect to continue handling drainage problems. Drains and pipes in the city's aging subdivisions, such as Hunting Creek, are failing at a greater rate. Ditches fill with sediment and flood. The early subdivisions were built before Jefferson County required them to have curbs and other drainage features.

MSD Executive Director Bud Schardein said his agency began serving Prospect on Feb. 9. He said people with drainage problems should call MSD directly.

Falk and Schardein agreed that MSD has more expertise than the city.

Schardein said Prospect residents "are going to receive the same level of maintenance service that everybody across the county that's part of the program is receiving right now."

But that service comes at a cost. In addition to what water customers will pay, the city will pay MSD \$578,000 over nine years. That's the amount the city would have paid MSD over the years if it hadn't "opted out" of the MSD program when it began in 1987.

Schardein said MSD will provide only routine maintenance and emergency flood protection until the

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\$578,000 is paid. Falk said that's sufficient because that's all the city has provided anyway.

After Prospect pays MSD, the city would qualify for multimillion-dollar drainage-improvement projects. Schardein said it's only fair that Prospect pay its share before it qualifies for regional capital projects.

Jeffersonton, Anchorage, St. Matthews and Shively also opted out of the program, but unlike Prospect, they have their own public works departments. Schardein said he has had informal conversations with leaders in those cities about joining the MSD program, but there are no plans for any of them to act now.

Falk, who was elected mayor in 1993, said he didn't know why the city opted out of the program in 1997. He said Prospect, which has 4,657 residents, was much smaller then, and it may have been practical for the city to handle drainage.

Schardein said he is pleased with Prospect's decision because it allows MSD to create a more comprehensive drainage plan. He has said Prospect missed out on its share of more than \$200 million in improvements the utility has made in the county's drainage system. Last year, MSD started \$67 million in improvements that will be completed within two years.

The countywide program wouldn't be possible without the monthly surcharge, Schardein said.

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MADISON ENCLOSURE 21  
PAGE 2 OF 2  
DATE: 12 APR 2004